

ROGER WICKER, MISSISSIPPI
ROY BLUNT, MISSOURI
MARCO RUBIO, FLORIDA
KELLY AYOTTE, NEW HAMPSHIRE
TED CRUZ, TEXAS
DEB FISCHER, NEBRASKA
JERRY MORAN, KANSAS
DAN SULLIVAN, ALASKA
RON JOHNSON, WISCONSIN
DEAN HELLER, NEVADA
CORY GARDNER, COLORADO
STEVE DAINES, MONTANA

BILL NELSON, FLORIDA
MARIA CANTWELL, WASHINGTON
CLAIRE McCASKILL, MISSOURI
AMY KLOBUCHAR, MINNESOTA
RICHARD BLUMENTHAL, CONNECTICUT
BRIAN SCHATZ, HAWAII
EDWARD MARKEY, MASSACHUSETTS
CORY BOOKER, NEW JERSEY
TOM UDALL, NEW MEXICO
JOE MANCHIN II, WEST VIRGINIA
GARY PETERS, MICHIGAN

DAVID SCHWETERT, STAFF DIRECTOR
KIM LIPSKY, DEMOCRATIC STAFF DIRECTOR

United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <http://commerce.senate.gov>

179

Feb. 24, 2015

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

Dear Chairman Wheeler:

On Feb. 23, *The Washington Post* published a front-page article "Secrecy around Police Surveillance Equipment Proves a Case's Undoing." That article indicated that the Tallahassee Police Department and other law enforcement agencies around the country have been using a device called the StingRay to collect cell phone call information.

That article and previous others concerning the device reveal the StingRay was certified for use by the Federal Communications Commission (FCC), contingent upon the conditions that StingRay's manufacturer sell these devices solely to federal, state, and local public safety and law enforcement; and that state and local law enforcement agencies must coordinate in advance with the Federal Bureau of Investigation (FBI) before acquiring or using this equipment. According to the article, these devices now have been purchased by 48 law enforcement agencies in 20 states and the District of Columbia and used in hundreds of cases.

The use of these devices (also known as ISMI catchers) raises a number of potential privacy and constitutional concerns.

Therefore, I am asking that the FCC report to me on its certification process for the StingRay and any other devices that have similar functionality. In particular, I would like information on the following:

- What information the FCC may have had about the rationale behind the restrictions placed on the certification of the StingRay, and whether similar restrictions have been put in place for other devices;
- Whether the FCC inquired about what oversight may be in place to make sure that use of the devices complied with the manufacturer's representations to the FCC at the time of certification; and

Honorable Wheeler
Page 2 of 2
Feb. 24, 2015

- A status report on the activities of the “task force” you previously formed to look at questions surrounding the use of the StingRay and similar devices.

Thank you and I look forward to your response.

Sincerely,

A handwritten signature in blue ink that reads "Bill Nelson". The signature is fluid and cursive, with the first name "Bill" and last name "Nelson" clearly distinguishable.

Bill Nelson
Ranking Member

cc: John Thune, Chairman



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 13, 2015

The Honorable Bill Nelson
Ranking Member
Committee on Commerce, Science and Transportation
United States Senate
425 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Nelson:

Thank you for your letter regarding devices known as IMSI catchers (one of which goes by the trade name StingRay) and their use by law enforcement agencies. In your letter, you posed questions about the FCC's certification process for such devices. I appreciate your inquiry and welcome this opportunity to address your specific concerns.

1. What information the FCC may have had about the rationale behind the restrictions placed on the certification of the StingRay, and whether similar restrictions have been put in place for other devices

Equipment certification is required to ensure that products that use radio spectrum comply with the Commission's technical rules. Certification is required before such a product can be imported or marketed in the United States, except that equipment marketed to or used solely by the federal government is not subject to the Commission's rules or certification. Placing conditions on the equipment certification is intended to ensure that such use of such equipment is constrained to law enforcement. Furthermore, the application for equipment authorization described the limited functionality built into the device and how it would be used by law enforcement after obtaining appropriate legal authority. These documents were granted confidentiality under the provisions routinely available under Commission's rules.

The Commission placed the following two conditions on each grant of certification: (1) the marketing and sale of these devices shall be limited to federal, state, and local public safety law enforcement officials only; and (2) state and local law enforcement agencies must coordinate in advance with the FBI the acquisition and use of the equipment authorized under this grant of certification. The conditions are consistent with our understanding that the equipment would be marketed for use only by law enforcement and that coordination with the FBI would protect federal interests.

Harris Corporation has applied for and been granted certification for several devices, all of which are posted on the Commission's web site. A list of the certified devices and the links to the grants of certification are attached. Portions of the applications are withheld from public

inspection as permitted under the Commission's rules because they include trade secrets. Digital Receiver Technology, Inc. applied for and was granted certification for similar devices which are also included in the attached list. The same conditions are included on the grants of certification for these devices.

We underscore that a grant of certification means only that the Commission has concluded that the equipment complies with the Commission's technical rules. It is the responsibility of law enforcement to obtain whatever legal authority may be required by Title 18 of the United States Code.

2. Whether the FCC inquired about what oversight may be in place to make sure that use of the devices complied with the manufacturer's representations to the FCC at the time of certification

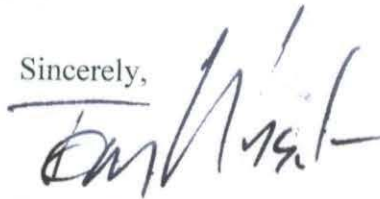
We have talked to the manufacturers, and they have confirmed that the subject equipment under the certification is marketed for use in the domestic market and only to U.S. law enforcement authorities. We also understand that the parties have been coordinating with the FBI as required. The Commission has no information about the extent to which or conditions under which law enforcement has obtained authority to use the devices.

3. A status report on the activities of the "task force" you previously formed to look at questions surrounding the use of the StingRay and similar devices

The Commission created a task force of experts from various offices within the agency to serve as the focal point to look at issues surrounding the use of IMSI catchers through a holistic approach. The task force also serves as a single point of initial contact across the agency to coordinate among agency stakeholders, develop process and clarify roles and responsibilities, as well as related issues that may arise.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Wheeler", with a stylized flourish at the end.

Tom Wheeler

Enclosure